(3) The charter group with which the passenger is to travel expresses no objection to his or her participation in the charter flight.

(b) For the purposes of this section, ''emergency circumstances beyond the passenger's control'' include, but are not limited to, illness or injury to the passenger or a member of his or her immediate family, death of a member of the passenger's immediate family, or weather conditions or unforeseeable and unavoidable delays in ground transportation or connecting air transportation.

§ 212.10 Payments to persons receiving commissions.

Payments for a U.S.-originating charter flight made to any person to whom the carrier, directly or indirectly, has paid a commission or has agreed to pay a commission for that flight shall be considered payments to the carrier.

§ 212.11 Filing requirements for adherence to Montreal Agreement.

It shall be a condition upon the holding of a foreign air carrier permit or other authority authorizing direct foreign charter air transportation that the holder have and maintain in effect and on file with the Board a signed counterpart of CAB Agreement 18900 (CAB Form 263), and comply with all other requirements of part 203 of this chapter. That form can be obtained from the Publications Services Division, Civil Aeronautics Board, Washington, D.C. 20428.

(Approved by the Office of Management and Budget under control number 3024–0064)

[ER–1329, 48 FR 8049, Feb. 25, 1983, as amended by ER–1341, 48 FR 31014, July 6, 1983]

§ 212.12 Protection of customers' deposits.

(a) Except as provided in paragraph (c) of this section, no foreign air carrier shall perform any charter trip (other than a cargo charter trip) originating in the United States or any overseas military personnel charter trip, as defined in part 372 of this chapter, nor shall such carrier accept any advance payment in connection with any such charter trip, unless there is on file with the Board a copy of a cur-

rently effective agreement made between said carrier and a designated bank, by the terms of which all sums payable in advance to the carrier by charterers, in connection with any such charter trip to be performed by said carrier shall be deposited with and maintained by the bank, as escrow holder, the agreement to be subject to the following conditions:

(1) The charterer (or its agent) shall pay the carrier either by check or money order made payable to the depository bank. Such check or money order and any cash received by the carrier from a charterer (or his agent) shall be deposited in, or mailed to, the bank no later than the close of the business day following the receipt of the check or money order or the cash, along with a statement showing the name and address of the charterer (or its agent): *Provided, however,* That where the charter transportation to be performed by a carrier is sold through a travel agent, the agent may be authorized by the carrier to deduct its commission and remit the balance of the advance payment to the carrier either by check or money order made payable to the designated bank.

(2) The bank shall pay over to the carrier escrowed funds with respect to a specific charter only after the carrier has certified in writing to the bank that such charter has been completed: *Provided, however,* That the bank may be required by the terms of the agreement to pay over to the carrier a specified portion of such escrowed funds, as payment for the performance of the outbound segment of a round-trip charter upon the carrier's written certification that such segment has been so completed.

(3) Refunds to a charterer from sums in the escrow account shall be paid directly to such charterer or its assigns. Upon written certification from the carrier that a charter has been canceled, the bank shall turn over directly to the charterer or its assigns all escrowed sums (less any cancellation penalties as provided in the charter contract) which the bank holds with respect to such canceled charter: *Provided, however,* That, in the case of a split charter, escrowed funds shall be